



**U.S. Department of Justice**

*United States Attorney  
Southern District of New York*

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*86 Chambers Street  
New York, New York 10007*

July 28, 2015

**BY ECF**

The Honorable Paul A. Crotty  
United States District Judge  
United States Courthouse  
500 Pearl Street  
New York, New York 10007

Re: *American Civil Liberties Union v. United States Department of Health and Human Services, et al.*, No. 15 Civ. 2645 (PAC)

Dear Judge Crotty:

The parties respectfully submit this letter jointly in accordance with Your Honor's Order dated July 20, 2015, entitled "Notice of Pretrial Conference." An initial pretrial conference is presently scheduled for August 4, 2015 at 2:45 p.m. For the reasons discussed below, the parties seek an adjournment of that conference to October 12, 2015, or such other date as may be convenient to the Court. This is the parties' first request for an adjournment of the initial pretrial conference.

The above-referenced action, filed April 6, 2015, is brought by the American Civil Liberties Union ("ACLU") pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552. The ACLU seeks from the Department of Health and Human Services ("DHS") and the Administration for Children and Families ("ACF") (collectively, the "Government") the release of documents concerning the Government's and its grantees' policies pertaining to reproductive health care for unaccompanied, undocumented and refugee minors. The ACLU also seeks a waiver of fees incurred in the Government's processing of the FOIA request, as well as costs and attorney's fees.

The Government and the ACLU have conferred on several occasions to negotiate a target date for the completion of production of responsive documents. The parties have agreed that the Government will continue to produce responsive documents on a rolling basis, and, to the extent possible, will complete its production by September 28, 2015. In addition, the Government has agreed to waive the fees incurred in its processing and production of documents responsive to the ACLU's FOIA request. The ACLU has agreed to the September 28, 2015 voluntary deadline, and the Government is committed to meeting that deadline. Of course, if the Government fails to produce responsive documents by September 28, 2015, the ACLU is free to seek relief from the Court at that time.

In light of the Government's anticipated production of documents by September 28, 2015, the parties respectfully request that the Court's initial pretrial conference, currently set for

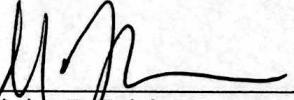
August 4, 2015, be rescheduled for October 12, 2015, or such other date as will be convenient to the Court. The requested adjournment will allow the parties sufficient time to determine whether further litigation is necessary, and if so, what steps must be taken. On one hand, the Government's timely production of documents may dispose of the substance of the action. But in the event the Government fails to produce documents by September 28, or timely produces documents but makes redactions or withholdings disputed by the ACLU, or if the parties are unable to reach agreement on attorney's fees and costs, the parties will be in a position to schedule dates for production or motion practice, as appropriate, with the Court at the initial pretrial conference.

Because this action is brought pursuant to the FOIA, ordinary principles of discovery are inapplicable. If disputes arise as to the propriety of withholdings or redactions made by the Government, they will be resolved on summary judgment. Accordingly, the parties respectfully request that Your Honor accept this letter as the parties' present case management plan, though the parties recognize that this plan may need to be modified after September 28, 2015.

We thank the Court for its consideration of this matter.

Respectfully,

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